

CAMPAIGN FINANCE GUIDE

*Political Action Committees
and
People's Committees*



Office of Campaign and Political Finance
Commonwealth of Massachusetts

This guide is designed to introduce individuals interested in organizing and operating a political action committee (PAC) or a people's committee to the provisions of the campaign finance law. The Office of Campaign and Political Finance (OCPF) is responsible for administering and enforcing Massachusetts General Laws Chapter 55, the campaign finance law. The office is available to assist individuals in complying with the statute and encourages treasurers, committee members and interested parties to familiarize themselves with these laws and regulations.

This publication is meant only to be an introductory guide to the campaign finance law, not a substitute for it. It is the responsibility of all those participating in political campaign financing in Massachusetts to become knowledgeable with the provisions of the law and regulations. Violations of the law carry serious penalties of fines, imprisonment or both. For additional information please contact the

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This publication and all other campaign finance guides are available online at www.mass.gov/ocpf/homepage_guides.htm.

Office of Campaign and Political Finance

Chapter 1173 of the Acts of 1973 strengthened the state campaign finance law and established the Office of Campaign and Political Finance. While the 1970s saw a push for reforms in campaign finance disclosure laws all across the country, portions of the campaign finance law were on the books in Massachusetts as early as 1884. Some of those original laws provide for restrictions on and protections for public employees and are discussed later in this brochure. Significant changes to the law were later made through Chapters 43 and 292 of the Acts of 1994. Many of these changes affect PACs and people's committees and are addressed in detail in this guide.

The Campaign Finance Law

Chapter 55 of the Massachusetts General Laws is a comprehensive statute concerning the financing of political campaigns in the Commonwealth. The statute requires, for example, that candidates and political committees disclose all contributions received and expenditures made. The campaign finance law also provides for limitations, and in some cases absolute prohibitions, on certain sources of campaign contributions. Additionally, the way in which campaign funds may be spent is regulated by the statute as well as by regulations and guidelines established by OCPF. Finally, Chapter 55 regulates certain conduct in connection with the raising and spending of campaign funds, such as the activities of public employees, and prohibits the use of governmental resources for political purposes. OCPF has promulgated regulations (970 CMR) on contributions and expenditures, which should be consulted for more specific guidelines on these requirements.

PACs and People's Committees

According to the campaign finance law, a political action committee, or PAC, is “any committee, association, organization or other group of persons, including a national, regional, state, county or municipal committee, which receives contributions or makes expenditures for the purpose of influencing the nomination or election of a candidate, or candidates” and “which is not a candidate’s committee, a political party committee nor a ballot question committee.”

A people’s committee is a political committee that begins its existence as a PAC, but meets four important criteria:

1. It only receives contributions from individuals;
2. It only receives contributions in amounts of \$140¹ or less in any calendar year;
3. It has been in existence for six months or more; and
4. It has contributed to five or more candidates.

Once that six-month period has passed, if the PAC has met the above conditions, it may, if it chooses, request a change in its status to that of people’s committee.

There are several important differences between a PAC and a people’s committee. The first concerns a limit on what certain candidates for office may accept from PACs. While both PACs and people’s committees are limited to making contributions of no more than \$500 per calendar year to a single candidate or that candidate’s political committee, **candidates may only accept PAC contributions within aggregate limits based upon the offices they seek. Those aggregate PAC limits are as follows:**

¹ Under M.G.L. c.55, s.1, this amount is indexed biennially by OCPF, by Dec. 31 of each odd-numbered year. The \$140 figure is in effect for 2006 and 2007. Contact OCPF if you are unsure whether the figure has changed..

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| Governor: | \$150,000 per calendar year |
| Lt. Governor: | \$ 31,250 per calendar year |
| Attorney General: | \$ 62,500 per calendar year |
| Treasurer: | \$ 37,500 per calendar year |
| Secretary of State: | \$ 37,500 per calendar year |
| Auditor: | \$ 37,500 per calendar year |
| County office: | \$ 18,750 per calendar year |
| Governor's Council: | \$ 18,750 per calendar year |
| State Senator: | \$ 18,750 per calendar year |
| State Representative: | \$ 7,500 per calendar year |

There are no aggregate limits, however, on how much candidates may accept from people's committees.

Limits on aggregate PAC contributions apply only to the offices listed above. There are no aggregate PAC contribution restrictions on candidates for municipal office.

A second important difference between PACs and people's committees is that candidates and elected officials may not serve as officers of a PAC or in any way control, maintain or finance a PAC, but may do so for people's committees.

Finally, while agents of a PAC may be regulated in the practice of "bundling" contributions to candidates, agents of people's committees face no such bundling restrictions. For more information on bundling, contact OCPF.

In order to become a people's committee, a PAC must first satisfy the conditions stated above and then file a Form 101 DS 1 (Declaration of Status of a PAC Becoming a People's Committee) for approval by OCPF.

Establishing a PAC

Complete and accurate reports disclosing all campaign finance activity must be filed in a timely manner with OCPF by the **treasurer** of a PAC or people's committee. Treasurers should familiarize themselves with the provisions of M.G.L. Chapter 55 as they are subject personally to monetary penalties for failure to file timely reports. The statute requires OCPF to assess a civil penalty of \$10 per day for any report, statement or affidavit required to be filed with the office that is filed later than the prescribed date.

All newly organized PACs must register by filing Form CPF 101 PC (Statement of Organization of a Political Committee) prior to raising and spending any monies (see instructions below). This includes a PAC that intends to become a people's committee. All committee funds must be kept separate from any other funds. Therefore, a newly organized PAC must establish a bank account specifically for its Massachusetts campaign finance activity. The first report should be filed with a beginning balance of zero because no activity may be undertaken by the committee until it is organized with OCPF. The law requires that an out-of-state organization that has an existing political fund establish a new committee and bank account for its Massachusetts activity which would then maintain separate records and raise its funds according to Massachusetts law.

Forms

In order to familiarize you with the appropriate forms required for PACs and people's committees, a summary of these forms and an explanation of their purpose is provided

here. OCPF can review with you these forms and the procedures for filing them upon request.

Form CPF 101 PC: Statement Of Organization of a Political Action Committee

Registering: In order for an organization or other group of persons to raise money in order to make political contributions to Massachusetts candidates, such organization or group must register as a PAC with OCPF by filing a Form CPF 101 PC. A political action committee may not accept any contributions nor incur any expenses until the treasurer qualifies for the office of treasurer by completing, signing and filing Form CPF 101 PC with OCPF.

Committee Name: This form contains the name of the newly organized political action committee, the names and addresses of the committee chairman, treasurer and any other officers and finance committee members as well as the specific purpose for which the committee is organized. The statute requires that the name of the committee include the full words represented by any abbreviations, initials or acronyms, as well as the words “political action committee.”

In addition, the name of the committee must clearly identify the economic or other special interest of a majority of its contributors, and, if a majority of its contributors share a common employer, identifies that employer. If the economic or other special interest or common employer of contributors is not identifiable, then the committee must use a name which clearly identifies the economic or special interest of a majority of its organizers, and, if a majority of its organizers share a common employer, identifies that employer. If the committee is organized, financed, controlled or maintained by an individual, the name of the committee must identify that individual. No PAC may use any name other than the name included in its Statement of Organization. In order to avoid problems, you

should check the availability of the name of the PAC with this office prior to filing any forms.

Committee Purpose: A PAC must also include on its Form CPF 101 PC a statement of purpose for which the committee is organized, including a list of specific issues in which the committee takes an interest, and a list of specific interests represented by the committee or by a significant proportion of its officers, members or contributors.

Officers: By law, a PAC must name a chairman and a treasurer. No candidate or individual holding elected public office - on the state, county or municipal level - may establish, finance, maintain, control or serve as a principal officer of a PAC. The only exceptions to this prohibition are the PACs organized to represent each political party in the state Senate and House of Representatives. Candidates and elected officials may, however, serve as officers of a people's committee.

Any change in information previously submitted should be reported to OCPF within 10 days of such change. Political committees are prohibited from receiving or expending funds without a qualified treasurer. Any change in treasurer must therefore be submitted by completing Form CPF T101 and filing it immediately with this office.

Form CPF 101 DS-1: Declaration Of Status PAC Becoming People's Committee

A PAC that wishes to change its status to that of a people's committee may do so if it meets the following conditions: 1) it has been in existence for at least six months; 2) during that time it has contributed to five or more candidates; 3) it has only accepted contributions from individuals; and 4) it has only accepted contributions in amounts of \$140 or less. (See footnote regarding indexing of this amount on Page 3.)

If the PAC abides by these conditions from the time of its organization, it may then file the Form CPF 101 DS-1 to apply for status as a people's committee.

Form CPF 102 PC: Campaign Finance Report

Each PAC and people's committee is required to report all campaign finance activity by completing and filing Form CPF 102 PC with OCPF on or before each reporting date, as discussed later in this guide. For most PACs, the report must be filed with OCPF electronically over the Internet, using the *Reporter* software provided by OCPF. A paper copy is no longer required from PACs that file electronically. The e-filing requirement applies to PACs and people's committees that raise or spend more than \$10,000 in a two-year election cycle. Those who do not reach the threshold are not required to file an electronic report, but must file a paper copy of Form CPF 102 PC if they do not choose to e-file. Contact OCPF if you need further information on the e-filing requirement or procedure.

The treasurer completes Form CPF 102 PC under the penalties of perjury and is responsible for the legality, validity, completeness and accuracy of each of their reports.

The following information must be included on Form CPF 102 PC:

Schedule A - Receipts: An alphabetical listing of all contributions in excess of \$50 received in a reporting period, including the date the contribution was received and the residential address of the contributor. This information must also be reported for receipts of \$50 or less if the total contributions from the individual have exceeded \$50 in the calendar year. Otherwise, receipts of \$50 and under are totaled on one line and included in total receipts. However, complete information, including date, name, residential address and amount must be kept by the political committee regardless of

the amount of the contribution. If the contribution is \$200 or more, the occupation and employer of the contributor must also be disclosed.

Schedule B - Expenditures: An alphabetical listing of all disbursements in excess of \$50 with the amount and date of payment, the name and address of the payee and the purpose of the expenditure. Those expenditures of \$50 or less are totaled on one line and included in the total expenditures.

Schedule C - In-Kind Contributions: An alphabetical listing of all in-kind contributions of anything of value other than money with a value in excess of \$50 in a calendar year. This listing includes the date, the name and residential address of the contributor from whom it was received and a description of the contribution. The occupation and employer of any contributor of \$200 or more in in-kind goods or services, or a combination of money and in-kind contributions, is also required. For those contributions valued at \$50 and under, a one-line total is included in the total of all in-kind contributions for the period. In-kind contributions do not include volunteers' personal services or the exercise of ordinary hospitality.

Schedule D - Liabilities: An alphabetical listing of all outstanding, unpaid obligations as of the last day of the reporting period, regardless of when the liability was incurred. Included is the amount, the date the liability was incurred, the name and address to whom it is due and the purpose of the liability. Liabilities are carried over from each report to the successive report until such time as they are satisfied.

Schedule E - Disclosure of Assets Statement: A listing of all assets acquired or disposed of during a calendar year which have a useful life of more than one year, would be depreciable in a normal business environment, and have a cost/value of \$1,000 or more at the time of acquisition. This schedule is filed only once each year on January 20 with Form 102 PC.

More detailed instructions for completing Form CPF 102 PC are available from OCPF and may also be found in the user's manual for *Reporter 3*, OCPF's recordkeeping and reporting software.

Filing Deadlines

PACs and people's committees registered with OCPF are required by statute to file periodic campaign finance reports. These reports must be filed on three occasions during state election years and once during off-state election years. These reports must be filed whether or not money has been raised or expended during the reporting period. The treasurer of the PAC or people's committee is **personally** liable for a \$10 per day fine imposed by OCPF for each day a report is late.

- o Pre-Primary Report: Due on or before the 8th day preceding the state primary, complete from the day following the ending date of the last report filed through 10 days before the due date.
- o Pre-Election Report: Due on or before the 8th day preceding the state election, complete from the day following the ending date of the last report filed through 10 days before the due date.
- o Year-End Report: Due on or before January 20 in the following year complete from the day following the ending date of the last report filed through December 31. This year-end report must be filed every year. Schedule E (Disclosure of Assets) must also be filed at this time in order for the report to be considered complete.

Costs Incurred to Administer a PAC

Any individual, association, corporation or other group which provides anything of value (other than volunteered, uncompensated personal services) to establish, administer or operate a political committee without reimbursement has made a contribution to that political committee.

Massachusetts General Laws Chapter 55, Section 8 prohibits a business or professional corporation from contributing to a PAC or a people's committee. If a corporation provides anything of value to establish, administer or operate a PAC or people's committee, the corporation must receive appropriate compensation in return from the PAC.

Contribution Limits

The following is a summary of limitations placed on contributions made to PACs:

- o An individual may contribute up to an aggregate of \$500 to a PAC in a calendar year. (A people's committee may not accept any contributions in excess of \$140 per year in order to remain a people's committee. See footnote regarding indexing of this amount on Page 3.)
- o Registered lobbyists may only contribute up to an aggregate of \$200 to a PAC in a calendar year. (Again, a people's committee may not accept any contributions in excess of \$140, including those from registered lobbyists, in order to remain a people's committee.)
- o An individual under age 18 is limited to a total of \$25 in political contributions to all candidates and political

committees, including PACs or people's committees, in a calendar year.

- o A PAC or people's committee may not accept any contribution, including an in-kind contribution of goods, services, equipment, personnel, facilities or the like, from a business or professional corporation, or from any association or organization comprised in whole or in part of business or professional corporations.

The reporting of all contributions received by PACs is required under M.G.L. Chapter 55. Some of the requirements for such disclosure are outlined below.

- o Each contributor must furnish the committee with his/her true name and address at the time the contribution is made.
- o The PAC must ask once at the time of solicitation and in one written follow-up request for the occupation and employer of any contributor who has given \$200 or more in a calendar year.
- o Contributions listed from a trust, foundation or association must include the names and residential addresses of its principal officers.
- o Contributions from the same person which in the aggregate in a calendar year exceed \$50 must be made by a check drawn on an account for which the contributor is personally liable. Contributions by cash, money order, cashier's check, bank check, wire transfer, payroll deduction etc. are prohibited in any amounts greater than \$50 in the aggregate per contributor per calendar year. Contributions may be made by credit card; committees should contact OCPF for its regulations concerning the process

- o Contributions of anything of value other than cash or checks are “in-kind” contributions, are reportable as such and are subject to the same contribution limits previously mentioned. Examples include, but are not limited to, rental space for headquarters, furniture, office equipment, printing and postage, advertisements, etc.
- o Loans are defined as contributions and are subject to the same contribution limits previously mentioned.
- o Individual contributions to a PAC or people’s committee are not considered against the annual aggregate limit of \$12,500 which an individual may contribute to candidates and candidate committees.

Expenditure Limits

The following is a summary of limitations on expenditures by PACs and people’s committees:

- o Expenditures by a PAC or people’s committee may be made for the enhancement of the principle for which the PAC or people’s committee was organized so long as such expenditure is not for any person’s personal use.
- o A PAC or people’s committee may contribute up to an aggregate of \$500 to a candidate or that candidate’s committee in a calendar year. The CPF ID number of the candidate/committee should be listed when reporting these contributions. A list of identification numbers is available through OCPF or on the office’s web site at www.mass.gov/ocpf.
- o A PAC or people’s committee may contribute up to an aggregate of \$500 to another PAC in a calendar year. A

PAC may not contribute any amount to a people's committee.

- o Any expenditure for an amount exceeding \$50 must be made by check.
- o Surplus money may be placed in an interest-bearing savings account or money market account. No other type of investment is permitted by law.
- o A PAC or a people's committee may contribute up to \$5,000 per calendar year in the aggregate to all political party committees of the same party organized on the ward, town, city or state levels.
- o A PAC or a people's committee may contribute up to an aggregate of \$500 per calendar year to a committee organized to promote or oppose a question submitted to the voters.

Dissolution of a Committee

A PAC or people's committee that wishes to dissolve may do so as long as it has no cash balance, assets or outstanding liabilities. Otherwise, all committees that do not dissolve must continue to file reports on a regular basis.

At dissolution, M.G.L. Chapter 55, Section 18 requires that all residual funds from committee accounts be donated to any of the following: (1) the Commonwealth of Massachusetts Local Aid Fund; (2) the general fund of a city or town; (3) a scholarship fund; or (4) a charitable or religious organization. Donations to scholarship funds and charities are subject to certain restrictions. Contact OCPF for more information.

Treasurers of political committees are required by law to preserve detailed accounts, vouchers and receipts for six years from the date of the relevant election. This statutory provision applies to all political committees organized in Massachusetts.

Public Employees, Buildings and Resources

OCPF administers Sections 13-17 of M.G.L. Chapter 55, which concern political activity involving public employees, building and other resources that are publicly funded. These laws were designed to: protect public employees from being coerced into providing political contributions or services as a condition of their employment; separate governmental activity from political campaign activity; and protect individuals doing business with the state from being coerced into providing political contributions or services.

OCPF's *Campaign Finance Guide: Public Employees, Public Resources and Political Activity* is available upon request. The following is a summary of the limitations on the political finance activities of public employees and the use of public buildings and resources in campaigns:

- o No state, county, city or town employee, other than an elected official, may directly or indirectly solicit or receive any contribution or anything of value for ANY political purpose whatsoever.
- o If a person is both a public employee and an elected official, the prohibitions against soliciting or receiving political contributions would still apply to him or her.
- o Soliciting or receiving campaign contributions by anyone in a building occupied for any state, county or municipal purpose is prohibited.

- o No person in the public service or in private employment may be compelled to make a political contribution or to render any political service.
- o No public official or employee may be prejudiced in his or her employment for failure to make a political contribution, or be rewarded for making a political contribution.
- o A political committee may not solicit or receive a contribution on behalf of a candidate who is a state, county or municipal employee, if the contributor has an interest in any particular matter in which the state, county or municipal employee participates, is an employee of the candidate or is otherwise the subject of his official responsibility.
- o No public resource may be expended or utilized in order to promote or oppose the nomination or election of any candidate to public office or to promote or oppose any ballot question placed before the voters. Examples of public resources include: paid staff time of public employees; office equipment; vehicles; buildings; supplies, etc.

In some cases, agency policy or the conflict-of-interest law, M.G.L. Chapter 268A, establishes stricter standards for public employee participation in political activities. Public employees should consult the State Ethics Commission as well as their supervisor or agency head.

Seeking Guidance from OCPF

OCPF welcomes inquiries regarding campaign finance activities. The office issues written advice, including advisory

opinions and guidance letters, to individuals based on written requests describing specific facts and circumstances. OCPF will issue opinions only on prospective activities. If you have any questions concerning advisory opinions, please contact the office. You may also obtain informal, oral advice by calling the office at the numbers listed on Page 1 or the back cover of this brochure.

In addition to issuing specific written advice, OCPF occasionally issues interpretive bulletins and memoranda setting guidelines on a variety of subjects. These documents are available from OCPF and may be helpful in assisting candidates, committees and other organizations.

Filing a Complaint

Individuals with information concerning possible violations of the campaign finance laws may call or write OCPF. If you have reason to believe that a violation has occurred, you may file a complaint. The office reviews all matters brought to its attention, regardless of the source of the complaint. The identity of complainants is kept confidential.

OCPF cannot comment on any matter that is under review or investigation. Consequently, an individual making a complaint will not receive periodic information on the status of the complaint. The complainant will receive notice, however, of any public disposition of a case.

Frequently Asked Questions

Q: If I want to make a contribution to a Massachusetts candidate, may I do so from my existing PAC registered with the Federal Election Commission or with another state?

A: No. For a committee to make a contribution to a Massachusetts candidate the committee must be registered with the Office of Campaign and Political Finance and establish a separate, segregated political fund that is distinct from any other account or fund.

Q: Must I open an account at a Massachusetts bank?

A: No. A Massachusetts bank account is not a requirement, but you must open a separate, segregated bank account.

Q: Must the chairman and treasurer of the PAC be Massachusetts residents?

A: No. Massachusetts residency is not a requirement.

Q: What number should I give the bank for the committee tax identification number?

A: Political committees should consult the Internal Revenue Service for information on how to obtain a federal tax identification number. In addition, you should contact the Massachusetts Department of Revenue for information on any state tax requirements that may be applicable.

Q: Who may be authorized to sign checks on the account?

A: The treasurer of the committee may authorize an individual to act on his/her behalf, but that person must abide by all the requirements of Chapter 55 and must give the treasurer a detailed account of all actions taken on his/her behalf, on demand or in any event, within three business days.

Q: May a business or professional corporation provide goods or services to help administer a PAC or people's committee?

A: No, not without appropriate compensation. Business or professional corporations are prohibited from contributing anything of value to a PAC, a people's committee, a candidate or a political party committee.

Q: I am a candidate for school committee in my hometown. May I serve as the chairman or treasurer of a PAC?

A: No. Candidates and elected officials on the state, county and municipal levels are prohibited from serving as the principal officers of a PAC or from financing, maintaining or controlling a PAC. However, there are no restrictions on candidates or elected officials serving as principal officers of or otherwise financing, maintaining or controlling people's committees.

Q: During the last year my PAC accepted contributions only from individuals in amounts of \$140 or less except for one occasion, when we took a contribution from another PAC. Can my PAC become a people's committee?

A: No. Regardless of the frequency, the acceptance of any contribution from an entity other than an individual would prohibit your PAC from becoming a people's committee. You would have to organize a new PAC and then abide by the conditions of a people's committee for six months. Following that time frame, your PAC would have to file a Declaration of Status (Form CPF 101 DS-1) and then abide by the conditions of a people's committee. If, at any time thereafter, the people's committee took a contribution from any entity other than an individual, or any contribution in excess of \$140, it would immediately revert to being a PAC and would not be allowed to return to its status as a people's committee. (See footnote regarding indexing of this amount on Page 3.)

Q: Is it the responsibility of the PAC to keep track of a candidate's aggregate PAC contributions so that he or she doesn't accept a contribution which would put him or her over that aggregate limit?

A: No. It is the responsibility of each **candidate** to keep track of his or her own aggregate PAC contributions in order to adhere to any limits. PACs will have contributions returned to them by candidates if those candidates have exceeded their aggregate PAC limits.

Q: I am an agent of a PAC. May I bundle contributions from individuals or others for the campaign of a candidate?

A: If any contribution of more than \$140 is bundled with other contributions by an officer or agent of a PAC and those bundled contributions are then delivered to a candidate or candidate's committee, it may be considered to be a regulated activity and subject to certain limitations and reporting requirements. (The bundling threshold amount is subject to the same indexing as the people's committee contribution limit, as described in the footnote on Page 3.) Please contact OCPF for more information.

Campaign Finance Guides available from OCPF:

Statewide, County and Other “Depository” Candidates
General Court (Legislative) Candidates
Municipal Candidates
State Ballot Question Committees
Municipal Ballot Question Committees
Political Action Committees and People’s Committees
Ward, Town and City Political Party Committees
Public Employees, Public Resources and Political Activity

All OCPF guides are available online at
www.mass.gov/ocpf/homepage_guides.htm.

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